index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength;

Group IV: claims 136-138, drawn to a liquid crystal display element having a layer of liquid crystal between two plates, electrodes, and a polarizer means for dividing a plurality of non-polarized light beams and for changing polarization and direction, a birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength;

Group V: claims 139-148, drawn to a liquid crystal display element having a layer of liquid crystal between two plates, electrodes, and a polarizer means for dividing a plurality of non-polarized light in the form of focusing optical elements, each element having at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength; and

Group VI: claims 149-159, drawn to a liquid crystal display element having a layer of liquid crystal between two plates, electrodes, and a polarizer in the form of a film or plate, having a means for dividing a plurality of non-polarized light beams, a polarizer means for dividing non-polarized light beams into polarized passing and reflected light beams having different polarizations, and a birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength.

Applicants provisionally elect, with traverse, the claims of Group I (claims 97-102). Applicants, however, do not understand the Examiner's reference to PCT Rules 13.1 and 13.2 (*See, e.g.*, Office Action, page 3, paragraph 2). Applicants note that the above-identified matter is not a PCT application. Rather, the above-identified matter is a national phase application. Thus, it is unclear why rules for PCT applications are being cited. During the telephonic interview with the Examiner, the Examiner suggested that the reason for applying PCT rules could be found in MPEP section 809. Applicants have looked at MPEP section 809, however, Applicants could find no reference in section 809 to PCT Rules 13.1 and 13.2. Clarification and/or explanation is respectfully requested. If the Examiner is thinking about 37 CFR 1.475, this section does not apply since the present application is not,

strictly speaking, a National Stage application, but is a Continuation of the International application.

Nevertheless, Applicants respectfully submit that restriction is not appropriate since a single search would encompass all of the claims as currently presented. Contrary to the Examiner's assertions, each of the claims do relate to a single inventive concept. Indeed, as acknowledged by the Examiner, each of the claims recite the technical feature of "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength." Thus, a search for a "birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength" would encompass all of the claims as currently presented. Since a single search would encompass all of the currently pending claims, examining the claims together does not place an undue burden on the United States Patent and Trademark Office. Restricting the claims, however, does place undue burden and expense on the Applicants, since restriction will require filing more than one application. At the very least, Applicants submit that the claims of Groups I, II, and III be considered in this application, since the claims of Groups I, II, and III are all directed to a polarizer.

The Examiner further alleges that U.S. Patent 5,739,296 to Gvon et al. ("Gvon") and U.S. Patent No. 5,712,024 to Okuzaki et al. ("Okuzaki") disclose the features of instant claim 1 (*See, e.g.*, Office Action, page 3, paragraph 2).[1] Applicants respectfully traverse. Firstly, Applicants note that the Examiner's allegation that Gvon and Okuzaki disclose the claimed invention does not provide a statutory basis for a restriction requirement. Although, the allegation that the disclosure in Gvon and Okuzaki might provide a statutory basis for rejecting the pending claims, it does not provide any basis for restricting the claims. Moreover, Gvon and Okuzaki do not disclose the present invention.

Okuzaki is directed to a completely different invention. Okuzaki is directed to an *antireflection* film which is completely different from the *polarizer*, recited in the claims of the pending application. Indeed, an antireflection film does not comprise a birefringent

---

[1] Applicants note that there is no claim 1 currently pending in the application. Applicants assume that the Examiner is referring to claim 97, *i.e.*, the first pending independent claim.

layer, as required by the pending claims. Furthermore, Okuzaki uses an *isotropically* absorbing layer whereas the presently claimed invention uses an *anisotropically* absorbing layer.

The polarizer disclosed in Gvon is also completely different from the claimed invention. The polarizer in Gvon is a dichroic, *i.e.*, absorbing polarizer. In contrast, the polarizer used in the claimed invention, unlike the polarizer disclosed in Gvon , uses "abnormal dispersion." There is no disclosure in Gvon of a polarizer that uses "abnormal dispersion." Moreover, the claimed invention uses different materials to form the birefringent anisotropically absorbing layer that exhibits "abnormal dispersion."

During the telephonic interview with the Examiner, Attorneys for applicants ask the Examiner to indicate exactly where in each of the references was there a teaching of "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength." The Examiner instructed Applicants' attorney that this feature could be found at column 9, lines 13-25 of Okuzaki. Applicants respectfully point out to the Examiner that column 9, lines 13-25 of Okuzaki does not disclose or suggest the technical feature of "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength." Column 9, lines 13-25 of Okuzaki merely discloses that *reflection* decreases for light entering into a multi-layer film structure. There is, however, absolutely no disclosure or suggestion of a *refraction index that grows as the polarizable light wavelength increases*. Indeed, column 9, lines 13-25 of Okuzaki does not even mention refraction index. For the above reasons, Applicants respectfully submit that neither Gvon or Okasuki individually or in combination disclose the invention.

The Examiner further alleges that the application contains claims directed to more than one species of the generic invention (*See, e.g.*, Office Action, page 3, paragraph 3). The Examiner again references PCT Rule 13.1. Since we are now past Stage I of the PCT application process, and the pending application is a Stage II (implemented in 37 CFR 371) of the PCT application, it is unclear why the PCT rules are being invoked. The Examiner is kindly requested to identify the support for his reliance on PCT Rule 13.1 in the present application. The Examiner goes on to require that Applicants elect a single species from

those identified in claims 135 or 163 since "the species are deemed to lack unity of invention because they are not so linked as to form a single inventive concept"(*See, e.g.*, Office Action, page 3, paragraph 3). Applicants provisionally elect, with traverse, species 1, organic salts of a dichroic anionic dye of general formula {chromogen}-$(XO^-M^+)_n$. Applicants, note, however, that the species are indeed all "linked by a single inventive concept."

Each of the species recited in claims 135 and 163 are linked by the inventive concept that they are each a material that can be used to manufacture the "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength." The species cited in claims 135 and 163 are merely preferred materials for manufacturing the "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength" recited in each of the claims. Accordingly, if the Examiner searches for the technical feature of "at least one birefringent anisotropically absorbing layer with at least one refraction index that grows as the polarizable light wavelength increases at least in a certain range of the wavelength," as suggested above, the search will encompass all of these species.

For the above reasons, Applicants respectfully request that the restriction of the claims into six groups be reconsidered and withdrawn and that all claims be examined together.

No fee is believed to be due for the submission of this response. Should any fees be required, please charge such fees to Pennie & Edmonds deposit account no. 16-1150.

Respectfully submitted,

Date: June 3, 2002

Nanda K. Alapati (Reg. No. 39,893)
For: Marcia H. Sundeen (Reg. No. 30,893)
PENNIE & EDMONDS LLP
1667 K Street, N.W.
Washington, D.C. 20006

(202) 496-4400